

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MATTHEW LUSANE,)	Case No. 5:18-CV-632
)	
Petitioner,)	JUDGE BENITA Y. PEARSON
)	
v.)	MAGISTRATE JUDGE
)	THOMAS M. PARKER
BRANDESHAWN HARRIS, Warden,)	
)	
Respondent.)	ORDER
)	

This matter comes before the court on two different motions for leave to supplement the record filed by petitioner, Matthew Lusane. On November 30, 2018, he filed a motion for leave to supplement the record with court records from previous cases. [ECF Doc. 25](#). On December 18, 2018, he filed a motion for leave to supplement the record with a document he purportedly filed in state court. [ECF Doc. 27](#). On January 11, 2019, respondent, Brandeshawn Harris, filed oppositions to both of Lusane's motions for leave. Respondent argues that it is unnecessary to expand the record to add these documents because Lusane has not shown that they are relevant or that they were before the Ohio Court of Appeals in its affirmance of his conviction.

Expansion of the record under Rule 7 of the Rules Governing § 2254 petitions is within the sound discretion of the district court. *Ashworth v. Bagley*, 2002 U.S. Dist. LEXIS 27219 at *32 (S.D. Ohio Mar. 26, 2002). After reviewing the parties' filings and applicable law, I find that petitioner's motions for orders expanding the record are not well taken. Lusane argues that the documents from his prior convictions are necessary to determine a sentencing issue raised in his


petition. Because sentencing is a matter of state law, it is very unlikely that these documents will be necessary to decide Lusane's current habeas petition. Moreover, records from cases that predated his conviction are unlikely to be relevant to the issues raised in this case. Similarly, the document attached to Lusane's second motion for leave has no evidentiary value. It is impossible to determine whether or when this document was even filed in state court.

Rule 7 of the Rules Governing § 2254 petitions provides that, "[i]f the petition is not dismissed, the judge may direct the parties to expand the record by submitting additional materials related to the petition...." At this point, there is no reason to expand the record in this case. It does not appear that these documents will be necessary to determine Lusane's petition. If, upon further reflection, the court decides to review the documents submitted by Lusane, it will notify the parties before doing so.

For the foregoing reasons, the undersigned DENIES petitioner's motions for leave to supplement the record. [ECF Doc. 25](#) and [27](#). Respondent's motion for extension of time to file response/reply to [ECF Doc. 27](#) is DENIED because it is moot. [ECF Doc. 29](#).

IT IS SO ORDERED.

Dated: April 26, 2019


Thomas M. Parker
United States Magistrate Judge
